

REMARKS

The Examiner's communication dated June 12, 2008 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, an election of species has been made, claim 68 (now withdrawn) has been amended, specification amendments have been made, and other miscellaneous matters have been addressed. Examination of the application is respectfully requested.

Summary of the Office Action

The Examiner again restricted examination of the present application under 35 U.S.C. § 121 to one of the following species:

- I The species of figures 1-4B, and
- II the species of figures 5A-5D

The Examiner made some comments relating to a telephone call he initiated with the undersigned attorney in an attempt to get an oral election to the subject restriction requirement.

The Examiner also suggested a couple of specification amendments and indicated that replacement sheets should be submitted illustrating elements 34 and 28.

Specification

The specification has been amended so that reference numeral 30 on page 6, line 1, has been changed to reference numeral 32 as suggested by the Examiner. Also, "left" on page 7, lines 21, has been changed to "right" as suggested by the Examiner. No new matter is added by these amendments.

Drawings

The Examiner indicated that replacement sheets should be submitted illustrating elements 34 and 28. The Examiner referenced page 9, lines 4-5, which include these reference numerals, and indicated that these reference numerals "do not seem to be

illustrated.” Applicant respectfully directs the Examiner’s attention to Figure 1 for the occurrence of reference numeral 34 and Figure 4A for the occurrence of reference numeral 28. In view of these reference numerals already being provided in the drawings, Applicant respectfully requests the Examiner to withdraw his indication that replacement sheets of drawings are needed.

Telephone Call to Mr. Overberger of May 30, 2008

On page 3 of the Office Action, the Examiner correctly indicated that he made a telephone call to the undersigned attorney on May 30, 2008 to request an oral election to the subject restriction requirement. The Examiner also correctly indicated that the telephone call failed to result in an election being made. In the Office Action, the Examiner went on to indicate:

On 5/30/08, Mr. Overberger indicated that he believes that no PCT form 408 exists in the PCT prosecution, and the claims allowed in the European Patent (EP 1 523 257), which has claims substantially identical to the claims of the pending application, were allowed over the same prior art that has submitted in the pending application.

Concerning PCT Form 408, Applicant’s undersigned representative did not indicate that he believed no PCT Form 408 exists in the PCT prosecution. Rather, the undersigned representative indicated that he requested a copy of any PCT Form 408 issuing in connection with the PCT case to be forwarded for submission to the U.S. Patent and Trademark Office. This request was made to Applicant’s German attorneys. To date, no such PCT Form 408 has been forwarded to the undersigned representative, nor has any indication been given as to its existence, or lack thereof.

Also, concerning the claims allowed in the European patent, Applicant’s undersigned representative denies indicating that the claims allowed in European Patent No. 1 523 257 are substantially identical to the claims of the pending application, and denies providing any indication that such claims were allowed over the same prior art that has been submitted in the pending application. Rather, Applicant’s undersigned

representative indicated that the European application corresponding to the subject U.S. application issued as European Patent No. 1 523 257. The Examiner's attention is directed to the amendment submitted on March 24, 2008, specifically page 13 thereof, wherein Applicant simply notified the Examiner that European Patent No. 1 523 257 was granted by the European Patent Office and submitted a copy for the Examiner's consideration. The undersigned representative has made no representation that the claims pending the subject U.S. application are "substantially identical" to the claims of the granted European Patent No. 1 523 257, and makes no indication that the granted claims of the European patent were allowed over the same prior art that has been submitted in the pending application.

Election to Restriction Requirement

Applicant elects, without traverse, the species of figures 1-4B. The Examiner indicated that claims 28-51, 57-67 and 73 are drawn to the species of Figures 1-4B. Applicant agrees and submits that these claims are readable on the elected species.

Applicant's election is made without traverse. As noted by the Examiner, upon the allowance of any generic claim, Applicant will be entitled to consideration of claims to species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of allowed generic claim as provided by 37 C.F.R. § 1.141.

Applicant retains the right to continue prosecution of the unelected species and/or claims in one or more continuation or divisional applications. Also, with respect to the Examiner's comments concerning the restriction, Applicant does not acquiesce to any statements concerning the claims of the subject application.

CONCLUSION

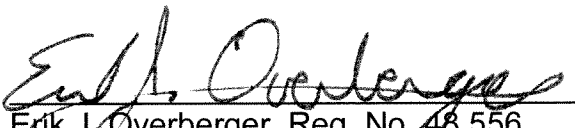
All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. If the Examiner is of the view that all of the pending claims of the application are not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any differences. Accordingly, an early notice of allowance is earnestly solicited.

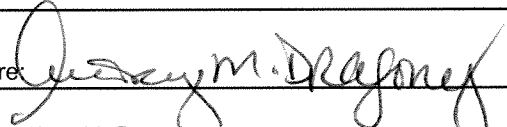
Respectfully submitted,

FAY SHARPE LLP

July 14, 2008

Date


Erik J. Overberger, Reg. No. 48,556
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

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